



Information UPDATE

Department of Public Instruction/Elizabeth Burmaster, State Superintendent/P.O. Box 7841/ Madison, WI 53707-7841

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TO: District Administrators, CESA Administrators, CCDEB Administrators,
Directors of Special Education and Pupil Services, and Other Interested Parties

FROM: Carolyn Stanford Taylor, Assistant State Superintendent
Division for Learning Support: Equity and Advocacy

SUBJECT: Findings from 2000-2001 School Year Onsite Compliance Reviews of Local
Educational Agencies

During the 2000-01 school year, the Wisconsin Department of Public Instruction conducted onsite compliance reviews of 78 local educational agencies (LEAs). The purpose of the reviews was to determine the extent to which LEAs are implementing correctly certain requirements of the Individuals with Disabilities Education Act (IDEA) and state law. This bulletin reports common errors found by the department's review of LEAs' implementation of specific legal requirements and offers guidance relating to their implementation.

In fall 2000 the department made available at our Internet site the Record Review Checklist that addresses special education requirements reviewed in 2000-01. The department encouraged LEAs to conduct self-assessments using the checklist. In addition, the department has included self-assessment as an important component of its onsite compliance reviews of LEAs. Self-assessment will continue to be a part of the department's compliance reviews. Each year we will encourage LEAs to conduct a self-assessment activity. We hope the guidance offered in this bulletin will assist LEAs in their self-assessments. The department's compliance review tools for the 2001-02 school year will be available by October 1st at our Internet site at www.dpi.state.wi.us/dpi/dlsea/een/monitor.html. LEAs scheduled for onsite compliance reviews during the 2001-02 school year will receive specific instructions regarding these tools 30 days before the review. LEAs not reviewed by the department during the 2001-02 year are encouraged to conduct a self-assessment of student records using this bulletin and the record checklist.

Procedures for Accepting and Processing Referrals

Requirement. Licensed LEA staff and others named at section 115.777(1)(a), Stats., who reasonably believe a child is a child with a disability have a duty to refer the child to the LEA for an IEP team evaluation. Each LEA must establish written procedures for accepting and processing these referrals. The referral procedures must address referrals from school staff, parents, and others in the community. These procedures are not included in the DPI's *LEA Model Policies and Procedures*.

LEAs use various models of early and ongoing collaboration and intervention in addition to the special education referral process. Some LEAs use "teacher assistance teams" or "student intervention teams" to develop interventions. Such interventions should be initiated early to address the educational needs of

children experiencing difficulties in school. The department recognizes the value of these approaches. However, pre-referral interventions may not delay the LEA's accepting and processing of referrals. The LEA's procedures cannot require a referring person to obtain the permission, approval, or agreement of others before the LEA accepts a referral. Further, the procedures cannot require a person who has formed a belief that a child is a child with a disability to defer a referral pending the outcome of pre-referral interventions.

Finding. Some LEAs have not established written procedures for accepting and processing referrals. Others with such procedures require a referring person to obtain the agreement of a team or require a series of educational interventions before a referral will be accepted. Some LEA policies require one or more individuals to review the referral before it reaches the individual designated to accept referrals. Such a policy may result in the referral being impermissibly delayed.

Timely Notice

Requirement. An LEA must provide a child's parents with a written notice of its intent to evaluate or re-evaluate a child a reasonable time before it initiates a child's evaluation or re-evaluation. The first step in the evaluation process is a review of existing evaluation data on the child by the individualized education program (IEP) team participants to identify what additional data, if any, are needed to complete an evaluation or re-evaluation. Therefore, the child's parents must receive a notice of the evaluation or re-evaluation before the IEP team begins to review existing evaluation data on the child. Transmittal of a properly completed Form A-2 or A-6 of the DPI Sample Forms to the child's parents a reasonable time before the review meets this requirement. These forms can be accessed at

http://www.dpi.state.wi.us/dpi/dlsea/een/form_int.html.

Finding. Some LEAs failed to provide the child's parents with the required notice before the IEP team began its review of existing evaluation data on the child to identify what additional data, if any, are needed to complete an evaluation or re-evaluation. Some LEAs documented case reviews completed by problem-solving teams prior to referral for special education, instead of IEP team reviews to determine whether additional evaluation data was needed to complete the IEP team evaluation. Other LEAs conducted IEP team reviews to identify what additional data, if any, were needed to complete an evaluation or re-evaluation, but mailed notices of evaluation (forms A-2 or A-6) after conducting the review.

Requirement. An LEA must provide a child's parents prior written notice of a change in the provision of free appropriate public education (FAPE) to the child or of a change in educational placement. The notice must be sent so that the parents receive it a reasonable time before the LEA starts to implement a revised IEP or begins a new placement for the child. Forms I-16 or I-17 of the DPI Sample Forms, when properly completed and sent timely with a copy of the IEP, will satisfy the notice requirements.

Finding. After reviewing and revising IEPs, some LEAs failed to provide notices of placement to parents before the implementation dates of revised IEPs. Therefore, parents were not provided with prior written notices of IEP changes. This situation occurred because annual meetings to review and revise IEPs were conducted close to IEP one-year anniversary dates. Parents received the written notices about the revised IEPs in the mail after the changes were implemented.

Reviews of Existing Evaluation Data Prior to Completing Evaluations

Requirement. The IEP team, including the parent, is required to review existing evaluation data on the child and identify what additional data, if any, are needed to complete an evaluation or re-evaluation. The law does not require a meeting for this purpose. At a minimum the IEP team includes the child's parents, at least

one special education teacher, at least one regular education teacher (if the child is or may be participating in regular education), and a local educational agency (LEA) representative.

Finding. Some LEAs failed to properly document that the child's parents were contacted to review existing evaluation data. The LEA's documentation does not identify the information reviewed or the specific date and method of contact or the parent's input. Regular education teachers did not participate in some of the reviews. Principals serving as LEA representatives did not participate in some reviews of existing evaluation data. Further, LEAs did not properly document that special education teachers and LEA representatives participated in reviewing existing data prior to the IEP team evaluation meeting. Form I-1 of the DPI Sample Forms may be used to document the date of contact, the method, the data reviewed, and each participant's input.

Considering Existing Data at the IEP Team Evaluation Meeting

Requirement. As part of an initial evaluation or a re-evaluation, the IEP team participants must review existing evaluation data on the child at the IEP team evaluation meeting. This information includes previous interventions and the effects of those interventions.

Finding. Some LEAs documented that IEP team participants reviewed previous interventions at IEP team meetings but failed to document that the team reviewed the effects of those interventions.

Present Level of Educational Performance (PLOEP)

Requirement. The PLOEP statement must include baseline data corresponding to each of the measurable annual goal statements. If test scores are used, they must be presented in a manner that is understandable to all, including parents. The law also requires that a PLOEP statement address how the child's disability affects the child's involvement and progress in the general curriculum (the curriculum taught to nondisabled students) or, for preschool students, how the disability affects the child's participation in appropriate activities. "Appropriate activities" refers to age-relevant developmental abilities or milestones that typically developing children of the same age would be performing or would have achieved. The IEP team's determination of how each child's disability affects involvement and progress in the general curriculum is a primary consideration in the development of the IEP. The PLOEP statement provides a basis for determining what accommodations the child needs in order to participate in the general curriculum.

Finding. Some PLOEP statements do not include how each child's disability affects the child's involvement and progress in the general curriculum or, for preschoolers, how the disability affects the child's participation in age-appropriate activities. Some PLOEPs do not include information corresponding to each IEP annual goal or provide baseline information from which to measure annual goal progress. Some PLOEPs consist of test scores without explanation.

Measurable Annual Goals, Benchmarks, and Short-term Objectives

Requirement. Each IEP must include a statement of measurable annual goals, including benchmarks or short-term objectives, related to meeting the child's needs that result from the child's disability. The goals should address needs to enable the child to be involved in and progress in the general curriculum and to meet other educational needs that result from the child's disability. An annual goal is measurable and includes a level of attainment that the child can be reasonably expected to achieve at the end of 12 months. Benchmarks describe the amount of progress the child is expected to make within specified segments of the year. Short-term objectives break the skills described in the annual goal into discrete components that are measurable intermediate steps. An IEP team may use either benchmarks or short-term objectives or both.

Finding. Some IEPs do not include annual goals with levels of attainment that children reasonably can be expected to achieve at the end of 12 months. The goals are not 12-month goals; rather, they are multi-year or lifetime goals, e.g., “improve reading” or “exhibit age-appropriate behavior.” IEP goals do not address needs that resulted from the child’s disability but included goals common to all students, e.g., “pass all classes” or “behave appropriately.”

IEP Services

Requirement. The IEP must include a statement of the special education and related services and supplementary aids and services and program modifications or supports for school personnel that will be provided for the child. The amount of services must be stated in the IEP so that the level of the LEA’s commitment of resources is clear. Also the IEP must include the anticipated frequency, location, and duration of the services. The location of services generally refers to the type of environment that is the appropriate place for the provision of the service, e.g., “resource room” or “regular classroom.”

Finding. Some IEPs do not include either clear statements of the amount of services or the frequency of services. IEPs indicate that services will be provided “as needed.” This description is found for supplementary aids and services and modification or supports for school personnel. Such statements do not make clear the LEA’s level of commitment of resources. If services are needed under particular circumstances, the IEP should state the circumstances under which they are needed. For example, if a student requires oral administration of tests, the IEP may state “tests in English and social studies to be administered orally” or “all tests at an instructional reading level above 6th grade to be administered orally.” Further, IEPs do not indicate the location (type of environment) for the provision of a particular service. Instead, the location is identified by the name of the school building or facility the child will attend.

Participation in the Regular Education Environment and the General Curriculum

Requirement. Another area of confusion revealed by the department’s reviews relates to the requirement that the IEP include an explanation of the extent, if any, to which the child will not participate in the regular education environment and in the general curriculum (the curriculum taught to nondisabled children). Both elements must be considered by the IEP team and clearly addressed in the IEP. For example, a child may be full time in the regular education environment and receive a replacement curriculum full time, instead of receiving the regular curriculum. Conversely, a child may be removed to a special education resource room and receive the regular education curriculum with modifications during that time. The general curriculum issue is addressed in the department’s model forms on Form I-11. The participation in the regular education environment is addressed in the department’s model forms on Form I-14 (2).

Finding. Some IEPs do not contain statements that clearly distinguish between the extent of the child’s non-participation in the regular education environment (an environment with nondisabled peers) and the extent of nonparticipation in the general curriculum.

Transition to Postsecondary Life

Requirement. Beginning at age 14 (or younger if determined appropriate by the IEP team) and annually thereafter, the IEP must include a statement of transition-service needs that focuses on the student’s courses

of study. An explanation of this requirement is found in an appendix to the IDEA regulations at 34 CFR 300, Appendix A, question 11, p. 12474. The regulations can be accessed on the Internet at http://ideapolicy.org/IDEA%20'97/pmp_idea_97.html.

To meet the requirement, the IEP team must determine what instruction and educational experiences are needed to assist the student to prepare for transition to postsecondary life. The statement of transition-service needs in the IEP should relate directly to the student's goals beyond secondary school and show how planned studies are linked to these goals. For example, one student is interested in studying computer programming after high school, while another student needs to learn to live independently in the community. The statement in the first student's IEP would indicate that the student will take courses in computer technology to prepare him to attend technical college. The other student's IEP would state that the student will have instruction in skills of daily living in order to reach the goal of living independently in the community after high school.

Finding. While statements of transition-service needs reviewed by the department identify courses of study, they fail to explain why the planned studies are important for achieving students' postsecondary goals or even mention postsecondary goals. Further, IEP teams erred when they failed to develop statements of transition-service needs focusing on courses of study for students by the time they attained the age of 14. In some LEAs, IEP teams developed statements of transition-service needs focusing on courses of study for 14- and 15-year-old students, but failed to do so for students age 16 and older. This IEP element must be in place by the time a youth reaches the age of 14 and must be developed each year thereafter.

Requirement. Beginning at age 16 (or younger if determined appropriate by the IEP team), the IEP must include a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages. The focus is on services that will be provided to the student as he or she moves from school to postschool experiences, including any linkages that may be needed.

Finding. Some LEAs failed to include in IEPs statements of transition services that focused on services needed for students as they move from school to postschool experiences, including needed linkages.

Placement Determined At Least Annually

Requirement. The educational placement of a child with a disability must be determined at least annually. Therefore, an IEP team must meet to determine a child's educational placement within one year of the last IEP team meeting to determine the child's educational placement.

Finding. Some LEAs failed to ensure that IEP teams met at least annually to determine children's educational placements. LEAs erred by arranging meeting dates based upon the dates of notices of placement, rather than the dates of the last IEP team meetings to determine placements.

Reporting Progress of Children with Disabilities to Parents

Requirement. The law requires that the parents of a child with a disability be informed of their child's progress at least as often as parents of nondisabled children. Further, the law requires that the parents be informed of (1) the child's progress on IEP annual goals and (2) the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year. Descriptions of progress such as "emerging" or "making progress" alone do not meet the requirement, because they do not address the sufficiency of the progress.

Finding. Some LEAs erred by addressing this requirement by sending home grades in subject areas on report cards that do not address progress on annual goals or the sufficiency of that progress. Other LEAs informed

parents periodically about progress on annual goals, but failed to include whether the progress was sufficient to enable the child to achieve the goals by the end of the year.

During the 2001-02 school year, we will include in monitoring a review of the notice required under 34 CFR 300.561 (child find notice). At least annually and before any major child-find activity, each LEA must notify parents of their rights with regard to pupil records. The notice may be given through such means as public announcements, written notices, or paid advertisements. In addition, at least annually each LEA must inform parents and others required to make referrals about the agency's referral and evaluation procedures. Attached to this bulletin is an example of a notice that may be adapted to meet these requirements. This notice is also available in English, Spanish, and Hmong through the Internet at http://www.dpi.state.wi.us/dpi/dlsea/een/form_int.html.

Questions about this bulletin may be directed to Jack Frye-Osier, Assistant Director of Special Education, at (608) 266-1781. This information update can also be accessed through the Internet at: <http://www.dpi.state.wi.us/dpi/dlsea/een/bulindex.html>

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